

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2329

Introduced by Assembly Members Ruskin and Chesbro

February 19, 2010

~~An act to amend Section 40824 of the Health and Safety Code, relating to air pollution. An act to amend Section 12891 of the Government Code, and to add Part 5 (commencing with Section 71400) to Division 34 of the Public Resources Code, relating to environmental protection.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2329, as amended, Ruskin. ~~Air pollution: hearing boards: notice requirements. Environmental protection: greenhouse gas emissions: Climate Action Team.~~

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board (state board) to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas (GHG) emissions limit equivalent to the statewide GHG emissions levels in 1990, to be achieved by 2020. The act requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective GHG emission reductions. The act requires all state agencies to consider and implement strategies to reduce their GHG emissions.

This bill would create the Climate Action Team (CAT), under the direction of the Secretary for Environmental Protection and consisting of representatives from specified state agencies, that would be

responsible for coordinating the state's overall climate policy, identifying and reviewing activities and funding programs, recommending policies, investment strategies, and priorities, and providing information to local governments and regional agencies.

~~(1) Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. The State Air Resources Board is designated with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law establishes one or more hearing boards in each district for the purposes of performing specified functions, including issuing interim variances from specified provisions of law relating to excess emissions by stationary sources and the products of stationary sources. The hearing board is required to serve reasonable notice of the time and place of the hearing to consider an interim variance application upon the district air pollution control officer and the applicant.~~

~~This bill would require a hearing board to send a notice of the hearing, not less than 3 days before the hearing, to any person who requests the notice.~~

~~By increasing the duties of a hearing board, this bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes-no.~~

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 12891 of the Government Code is*
- 2 *amended to read:*
- 3 *12891. For the purposes of this chapter, the following terms*
- 4 *have the following meanings:*

(a) “Agency” means the California Environmental Protection Agency.

(b) ~~“Climate Action Team Report”~~ *Team*” means the ~~report prepared pursuant to Executive Order S-3-05 and submitted to the Governor and the Legislature in March 2006~~ *Climate Action Team established pursuant to Section 71402 of the Public Resources Code.*

(c) “GHG” means greenhouse gas as defined in subdivision (g) of Section 38505 of the Health and Safety Code.

(d) “GHG emission reduction target” means ~~a target established for a state agency in the Climate Action Team Report, or a requirement made applicable to that state agency by an action taken by the State Air Resources Board pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code.~~

(e) “Secretary” means the Secretary for Environmental Protection.

(f) *“Sector” means an industrial, resources, or administrative domain that should be addressed as an integrated whole for the purposes of climate change planning.*

~~(f)~~
(g) “State agency” means ~~a state agency listed in~~ *member of the Climate Action Team Report*, a state office, department, division, bureau, board, or commission whose operations or programs result in greenhouse gas emissions that are subject to Division 25.5 (commencing with Section 38500) of the Health and Safety Code, and any other state agency ~~listed in Section 12800~~, as determined by the secretary.

SEC. 2. Part 5 (commencing with Section 71400) is added to Division 34 of the Public Resources Code, to read:

PART 5. STATE CLIMATE CHANGE ACTION TEAM ACT OF 2010

71400. This part shall be known as the State Climate Change Action Team Act of 2010.

71401. The Legislature finds and declares all of the following:

(a) *California is a world leader in efforts to reduce greenhouse gases, to assess, adapt to, and mitigate the effects of climate change, and to promote clean alternative technologies to improve*

1 *the state's economy and the protection of public health and the*
2 *environment.*

3 *(b) The California Global Warming Solutions Act of 2006*
4 *(Division 25.5 (commencing with Section 38500) of the Health*
5 *and Safety Code) provides a process for the establishment of a*
6 *statewide greenhouse gas emission limit and a process for the*
7 *adoption of regulations to achieve the maximum technologically*
8 *feasible and cost-effective greenhouse gas emission reductions.*
9 *That act also directs the Climate Action Team to coordinate the*
10 *overall climate policy as provided in Executive Order No. S-3-05*
11 *and for all state agencies to consider and implement strategies to*
12 *reduce their greenhouse gas emissions.*

13 *(c) California currently invests hundreds of millions of dollars*
14 *in research funds for air quality, transportation, electricity, natural*
15 *gas, water, and other types of research, development,*
16 *demonstration, and deployment projects that could contribute to*
17 *the achievement of statewide greenhouse gas emission reductions,*
18 *or to the effective adaptation to unavoidable climate change.*

19 *(d) More effective coordination of existing programs and funding*
20 *by the state can improve the achievement of statewide greenhouse*
21 *gas emission reductions, the protection of the state's infrastructure,*
22 *communities, and natural resources from the impacts of climate*
23 *change, and provide economic and job growth through the*
24 *development and support of a strong clean technology industry.*

25 *(e) Due to the global nature of the causes and impacts of climate*
26 *change, it is imperative for California to consult with other states,*
27 *the federal government, and other nations to identify the most*
28 *effective strategies and methods to reduce greenhouse gases, adapt*
29 *to ongoing and future climate change, coordinate climate change*
30 *research efforts, and to facilitate the development of integrated*
31 *and cost-effective regional, national, and international climate*
32 *change programs.*

33 *71402. (a) The Climate Action Team is hereby established in*
34 *state government and shall consist of the following members:*

35 *(1) The Secretary for Environmental Protection, who shall serve*
36 *as the chairperson of the Climate Action Team, and who shall*
37 *coordinate oversight of the efforts made to meet the greenhouse*
38 *gas emission reduction targets established pursuant to the Global*
39 *Warming Solutions Act of 2006 (Division 25.5 (commencing with*
40 *Section 38500) of the Health and Safety Code).*

- 1 (2) *The Secretary of the Natural Resources Agency.*
- 2 (3) *The Chairperson of the State Air Resources Board.*
- 3 (4) *The Chairperson of the State Energy Resources Conservation*
- 4 *and Development Commission.*
- 5 (5) *The President of the Public Utilities Commission.*
- 6 (6) *The Secretary of Business, Transportation and Housing.*
- 7 (7) *The Secretary of Food and Agriculture.*
- 8 (8) *The Secretary of State and Consumer Services.*
- 9 (9) *The Secretary of California Health and Human Services.*
- 10 (10) *The Director of the Office of Planning and Research.*
- 11 (11) *The Secretary for Labor and Workforce Development.*
- 12 (b) *Upon the determination of the Secretary for Environmental*
- 13 *Protection, ex officio representatives from other state departments*
- 14 *may be added to the Climate Action Team as necessary to provide*
- 15 *assistance and expertise in particular subject areas.*
- 16 (c) *Multiagency staff working groups may be formed by the*
- 17 *Climate Action Team to provide technical support for the work of*
- 18 *the team in individual sectors. Sectors may include, but is not*
- 19 *limited to, agriculture, biodiversity and habitat, forestry, energy,*
- 20 *land use, coastal and delta resources, regional and international*
- 21 *policy development, state operations, water, and climate change*
- 22 *research.*
- 23 71403. *Consistent with the California Global Warming*
- 24 *Solutions Act of 2006 (Division 25.5 (commencing with Section*
- 25 *38500) of the Health and Safety Code) and Executive Order No.*
- 26 *S-3-05, the Climate Action Team, under the direction of the*
- 27 *Secretary for Environmental Protection, shall coordinate climate*
- 28 *policy of the state to achieve all of the following goals:*
- 29 (a) *The maximum feasible and cost-effective reduction of*
- 30 *greenhouse gas emissions through the implementation of the*
- 31 *California Global Warming Solutions Act of 2006 (Division 25.5*
- 32 *(commencing with Section 38500) of the Health and Safety Code).*
- 33 (b) *The promotion of economic and job growth in California*
- 34 *through workforce development and the encouragement and*
- 35 *support of clean technology development and deployment to meet*
- 36 *the state's climate change goals and greenhouse gas emission*
- 37 *reduction targets and limits.*
- 38 (c) *The identification of unavoidable climate change impacts*
- 39 *to California's natural resources and infrastructure.*

1 (d) *The development and implementation of mitigation and*
2 *adaptation plans to protect the natural resources, public health*
3 *and welfare, and economy of California.*

4 (e) *The coordination of climate change policies with other states,*
5 *the federal government, and other nations to identify the most*
6 *effective strategies and methods to reduce greenhouse gases, adapt*
7 *to ongoing and future climate change, coordinate climate change*
8 *research efforts, and facilitate the development of integrated and*
9 *cost-effective regional, national, and international climate change*
10 *programs.*

11 (f) *The coordination and efficient use of existing state resources,*
12 *programs, and funds to achieve the goals identified in this section.*

13 71404. *The Climate Action Team, under the direction of the*
14 *Secretary for Environmental Protection, shall do all of the*
15 *following:*

16 (a) *Identify and review activities, funding programs, and other*
17 *revenue of state agencies that may be coordinated to meet the*
18 *goals of Section 71403.*

19 (b) *Recommend policies, investment strategies, and priorities*
20 *to meet the goals of Section 71403.*

21 (c) *Provide information to local governments and regional*
22 *activities that will assist in addressing the goals of Section 71403.*

23 71405. (a) *Each member of the Climate Action Team may*
24 *appoint an alternate or designee to attend meetings or hearings*
25 *of the Climate Action Team in that member's place.*

26 (b) *Notwithstanding Section 7.5 of the Government Code, each*
27 *designee shall act as the member in his or her place and stead to*
28 *all intents and purposes as though the member were personally*
29 *present, including the right of the designee to be counted in*
30 *constituting a quorum to participate in any proceeding of the*
31 *Climate Action Team and to vote upon any and all matters.*

32 (c) *Each designee shall have the right to represent the member*
33 *who appointed him or her regardless of the number of other*
34 *designees representing the chair, director, president, or secretaries,*
35 *at a particular meeting or session of the Climate Action Team.*
36 *Each designee shall represent only one member at any meeting or*
37 *session of the Climate Action Team.*

38 (d) *The Climate Action Team may hold duly noticed public*
39 *meetings and workshops to solicit comments from the public prior*
40 *to recommending policies, investment strategies, and priority in*

1 *accordance with subdivision (b) of Section 71404. Except as*
2 *provided in this subdivision, the Climate Action Team shall not*
3 *be required to conduct its meetings open to the public in*
4 *accordance with Article 9 (commencing with Section 11120) of*
5 *Chapter 1 of Part 1 of Division 3 of Title 2 of the Government*
6 *Code.*

7 ~~SECTION 1. Section 40824 of the Health and Safety Code is~~
8 ~~amended to read:~~

9 ~~40824. In case of a hearing to consider an application for an~~
10 ~~interim variance, as authorized under Section 42351:~~

11 ~~(a) The hearing board shall serve reasonable notice of the time~~
12 ~~and place of the hearing upon the district air pollution control~~
13 ~~officer and upon the applicant, and shall send notice of the hearing,~~
14 ~~not less than three days prior to the hearing, to any person who~~
15 ~~requests the notice.~~

16 ~~(b) Subdivision (b) of Section 40823 shall not apply.~~

17 ~~(c) In districts with a population of less than 750,000, the~~
18 ~~chairperson of the hearing board, or any other member of the~~
19 ~~hearing board designated by the board, may hear an application~~
20 ~~for an interim variance. If any member of the public contests a~~
21 ~~decision made by a single member of the hearing board, the~~
22 ~~application shall be reheard by the full hearing board within 10~~
23 ~~days of the decision.~~

24 ~~SEC. 2. If the Commission on State Mandates determines that~~
25 ~~this act contains costs mandated by the state, reimbursement to~~
26 ~~local agencies and school districts for those costs shall be made~~
27 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
28 ~~4 of Title 2 of the Government Code.~~